

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

UNITED STATES OF AMERICA §  
§  
v. § CRIMINAL NO. 4:12CR163 MAC/DDB  
§  
JUAN JAIRO HERNANDEZ-FRIAS §

**REPORT AND RECOMMENDATION  
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release.

After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on November 12, 2015 to determine whether Defendant violated his supervised release. Defendant was represented by Frank Henderson. The Government was represented by Jay Combs.

On July 29, 2013, Defendant was sentenced by the Honorable Marcia A. Crone, United States District Judge, to a sentence of 16 months imprisonment followed by a 3-year term of supervised release for the offense of Reentry of Removed Alien. Defendant began his term of supervision on August 19, 2013.

On August 10, 2015, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender under Supervision (the "Petition") (Dkt. 33). The Petition asserts that Defendant violated the following conditions of supervision: (1) Defendant shall not commit another federal, state, or local crime; and (2) Immediately upon release from confinement, Defendant shall be surrendered to a duly authorized immigration official for deportation proceedings in accordance with the established procedures provided by the Immigration and Nationality Act, 8 U.S.C. § 1101, *et seq.* If ordered

deported, Defendant shall remain outside the United States. In the event Defendant is not deported, or for any reasons reenters the country after having been deported, Defendant shall comply with all conditions of supervised release, to include reporting to the nearest U.S. Probation Office within 72 hours of release by immigration officials or reentry into the country.

The Petition alleges that Defendant committed the following violations: (1) On May 2, 2015, Defendant was arrested by U.S. Border Patrol agents, near Eagle Pass, Texas, and charged with Illegal Entry. On May 4, 2015, Defendant was indicted on the aforementioned offense in the Western District of Texas, Del Rio Division, Case No. DR:15-M-03858(1)-VRG. On May 8, 2015, U.S. Magistrate Judge Victor Roberto Garcia, Western District of Texas, sentenced Defendant to a term of 120 days with credit for time already served; and (2) Defendant completed his term of imprisonment on August 19, 2013, and proceeded into custody of the Bureau of Immigration and Customs Enforcement. Defendant was deported to Mexico but failed to remain outside of the United States, as evidenced by his arrest by U.S. Border Patrol agents on May 2, 2015, near Eagle Pass, Texas.

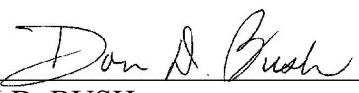
At the hearing, Defendant entered a plea of true to the alleged violations. Defendant waived his right to allocute before the district judge and his right to object to the report and recommendation of this Court. The Court finds that Defendant has violated the terms of his supervised release.

### **RECOMMENDATION**

Pursuant to the Sentencing Reform Act of 1984 and having considered the arguments presented at the November 12, 2015 hearing, the Court recommends that Defendant be committed

to the custody of the Bureau of Prisons to be imprisoned for a term of twelve and a half (12-1/2) months, with no supervised release to follow.

**SIGNED this 25th day of November, 2015.**

  
DON D. BUSH  
UNITED STATES MAGISTRATE JUDGE